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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,536	05/18/2005	Zion Azar	127/04496	6013
44909	7590	01/02/2008	EXAMINER	
PRTSI			RALIS, STEPHEN J	
P.O. Box 16446				
Arlington, VA 22215				
			ART UNIT	PAPER NUMBER
			3742	
			MAIL DATE	DELIVERY MODE
			01/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,536

Applicant(s)

AZAR ET AL.

Examiner

Stephen J. Ralis

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9-11,13-16 and 18-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9-11,13-16 and 18-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Arguments

2. Applicant's arguments filed 11 October 2007 have been fully considered but they are not persuasive.
3. Applicant's arguments with respect to claims 16, 18-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7, 10, 11, 13, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelman (International Publication No. WO/92/16338).

Kelman discloses a hand-held hair cutting apparatus comprising a structure adapted for contacting an area of skin having hair and a method of collecting cut hair, the apparatus comprising: a heated elongate element (laser beam 18; Abstract; vaporize and carbonize; page 5, lines 18-24) heated to a temperature sufficient to cut

hair, mounted on the structure (via the laser beam generating apparatus 12; and an electrostatically charged element adapted for collecting cut hair (page 6, line 24 – page 7, line 3).

With respect to the limitation of a heated elongated element, Kelman disclose a laser beam (18) that is used to cut hair (Abstract). A laser beam is an elongated beam of light that is amplified by stimulated emission of radiation. Kelman further disclose the hair being vaporized or carbonized at the location of impingement of the laser beam (18) thereon (page 5, lines 18-24). To carbonize hair by a laser beam (18) would involve a burning/heating since the laser beam (18) light is not carbonizing by a chemical process or by fossilization. Therefore, Kelman fully meets “a heated elongate element heated to a temperature sufficient to cut hair” given its broadest reasonable interpretation.

Kelman further discloses the electrostatically charged element comprising a hair collecting receptacle (inherent in a hair collecting means; page 10, claim 9) and a comb portion (40); including moving the heated elongate element along the surface of the skin of an area from which hair is to be removed by hand (see Figures 1A, 1B, 2A, 3A, 4); and the elongate element being located external to the housing (see Figure 4).

As the reference meets all material limitations of the claims at hand, the reference is anticipatory.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelman (International Publication No. WO/92/16338) in view of Iderosa (U.S. Patent No. 5,065,515).

Kelman discloses all of the limitations of the claimed invention, as previously set forth, except for the heated elongate element being a wire instead of a laser. Iderosa teaches that a heated wire metallic element is an equivalent structure known in the art (Abstract; column 1, lines 62-67; column 2, lines 20-36; column 3, lines 54-61; see Figure 3). Therefore, because these heating means were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a heating wire for a laser.

9. Claims 16 and 18-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelman (International Publication No. WO/92/16338) in view of Bermingham (U.S. Patent No. 3,045,345).

Kelman discloses all of the limitations of the claimed invention, as previously set forth, except for the electrostatically charged element being charged by friction of the element with the skin of a user as it is moved along the skin.

However, an electrostatically charged element being charged by friction as it is moved along the skin is known in the art. Bermingham, for example, teach a shear plate (14) constructed of a dielectric material that is adapted to develop a static electrical charge by friction, a charge is developed and retained therein on being brought into contact with the skin (column 1, lines 14-20; column 2, lines 26-55). Bermingham further teaches the advantage of such a configuration provides an attracting force for the hairs to be cut and tends to set them into optimum cutting operative movement, thereby improving the operational efficiency of the hair cutting device. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kelman with the electrostatically charged element being charged by friction as it is moved along the skin of Bermingham in order to provide an attracting force for the hairs to be cut and tends to set them into optimum cutting operative movement, thereby improving the operational efficiency of the hair cutting device.

With respect to the claim 18, 24, 30 and 34, Kelman discloses the apparatus for removing loose hairs (vacuum apparatus 24) being opposite the heated elongate

element (laser beam 18) (see Figure 4). Kelman also disclose a comb (40) being constructed as part of the vacuum apparatus (24) which arranges both loose and attached hairs (42). In addition, Kelman discloses an electrostatically charged element may be used instead of the vacuum apparatus (24) for collecting cut hair (page 6, line 24 – page 7, line 3). Such a substitution would be relatively in the same approximate location as the vacuum apparatus (24), therefore, the location of the electrostatically charged element would be approximate the comb (40) as well. Therefore, the electrostatically charged element/comb combination fully meets "a housing adapted for holding by a user wherein the electrostatically charged elongate element comprise an outcropping from the housing" Given its broadest reasonable interpretation.

With respect to the limitations of claims 19, 21, 25, 27, 31 and 33, Kelman discloses the hair cutting apparatus (see Figure 4) being moved along the skin and the outcropping (comb 40) being spaced from the heated elongated element (laser beam 18). Bermingham teaches the contacting surface (plate 14) contacting the skin during the shaving process. Since Kelman discloses the electrostatically charged element being opposite the heated elongated element (laser beam 18), as asserted above, and Bermingham teaches the electrical static generating surface being in contact with the skin, Kelman in view of Bermingham fully meets "the apparatus is adapted to be moved along the skin and wherein the outcropping is spaced from the heated elongate element such that the electrostatically charged element contacts the skin after the hair has been cut" Given its broadest reasonable interpretation.

With respect to the limitation of claim 20, 22, 23, 26, 28, 29, 32, 35 and 36, Kelman discloses the electrostatically charged element comprising a hair collecting receptacle (inherent in a hair collecting means; page 10, claim 9) and a comb portion (40) adjacent the electrostatically charged element, as asserted above. Bermingham further teach the electrostatically charging plate (14) being on the contact face of the hair cutting device.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 7, 8, 11 and 12 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 11,571,753. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are merely broader in scope than that of the copending application. Therefore, the copending application comprising a blunt debris removal element that would inherently generate an electrostatic force during operation meets the limitations of the instant application..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Remarks

12. With respect the applicant's arguments the laser beam (18) is not a physical element, the examiner respectfully disagrees. Kelman explicitly disclose the laser

source (12) generating a laser beam (18) that is cutting (vaporizing and carbonizing hair; page 5, lines 18-24). Clearly, the laser beam (18) is a physical element producing a physical effect onto the hair (42). Therefore, Kelman anticipates and fully meets “a heated elongated element” given its broadest reasonable interpretation.

11. With respect to applicant's argument that the beam does not produce heat, the examiner respectfully disagrees. Kelman disclose a laser beam (18) that is used to cut hair (Abstract). A laser beam is an elongated beam of light that is amplified by stimulated emission of radiation. Kelman further disclose the hair being *vaporized or carbonized* at the location of impingement of the laser beam (18) thereon (page 5, lines 18-24). To carbonize hair by a laser beam (18) would involve a burning/heating since the laser beam (18) light is not carbonizing by a chemical process or by fossilization. Therefore, Kelman fully meets “a heated elongate element heated to a temperature sufficient to cut hair” given its broadest reasonable interpretation.

12. With respect to applicant's argument that the beam does not produce heat, the examiner respectfully disagrees. Kelman disclose a laser beam (18) that is used to cut hair (Abstract). A laser beam is an elongated beam of light that is amplified by stimulated emission of radiation. Kelman further disclose the hair being vaporized or carbonized at the location of impingement of the laser beam (18) thereon (page 5, lines 18-24). To carbonize hair by a laser beam (18) would involve a burning/heating since the laser beam (18) light is not carbonizing by a chemical process or by fossilization. Therefore, Kelman fully meets “a heated elongate element heated to a temperature sufficient to cut hair” given its broadest reasonable interpretation.

13. With respect to applicant's argument in regards to the nonstatutory obvious double patenting, the examiner respectfully disagrees. A non-statutory rejection is not based on the claim(s) being exactly like the other claim(s), however is based on the claim(s) is either anticipated by, or would have been obvious over, the reference claim(s). As the examiner respectfully asserted in the prior Office action, the claims are not patentably distinct from each other because the claims of the instant application *are merely broader in scope* than that of the copending application. Therefore, the examiner maintains the nonstatutory obvious double patenting rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

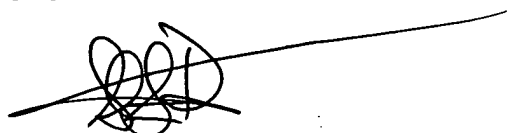
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Ralis whose telephone number is 571-272-6227. The examiner can normally be reached on Monday - Friday, 8:00-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Stephen J Ralis
Examiner
Art Unit 3742

SJR
December 21, 2007



TU BA HOANG
SUPERVISORY PATENT EXAMINER